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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,357	08/26/2003	John M. Palmer		4176

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EXAMINER

NELSON, JAMES T

ART UNIT PAPER NUMBER

3637

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/649,357

Applicant(s)

PALMER ET AL.

Examiner

James T. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the Applicant is claiming an umbrella support device or an umbrella support device in combination with a mower structure. If the Applicant intends to claim only the umbrella support, all recitation of the combination must be removed. If the Applicant intends to claim the combination, the preamble of the claims should be amended to be consistent with the language in the body of the claims.
3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In claims 1 and 8, the limitation of “operator’s legs” and “operator’s hands” specifically limits the claim to particular part of the human body. Since people come in all different shapes, sizes, abilities, and characteristics, the scope of the claim is unclear.
4. Claim 1 recites the limitations “said operator’s legs” and “said operator’s hands” in line 8. There is insufficient antecedent basis for these limitations in the claim.
5. Claim 2 recites the limitation “said operator” in line 12. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 8 recites the limitations “said operator” in line 26 and “said operator’s hands” in line 28. There is insufficient antecedent basis for this limitation in the claim.

7. Regarding claim 4, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The limitations of "operator's legs" and "operator's hands" specifically limit the claims to particular parts of the human body. A claim directed to or including within its scope a human being or attributes of a human being is not patentable subject matter. See MPEP §2105 and 1077 OG 24 (April 21, 1987).

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by the Japanese document '557. In Figs. 1, 2 and 4, the document shows an umbrella support device mounted in front of a vehicle seat (7) comprising an offset frame (20) with an upper end (10) configured to rotationally receive the lower end of an umbrella's shaft (A1), a lower end pivotally mounted (32) to the vehicle allowing the umbrella to pivot forward and aft, locking means (32a) to secure the offset frame in a desired position,

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spindle means in the upper end (10) providing for rotation and vertical adjustment of the umbrella shaft (A1), and an umbrella (A).

12. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pranke. In Figs. 1 and 2, Pranke shows an umbrella support device mounted in front of a vehicle seat (2) comprising an offset frame (20) with an upper end configured to rotationally receive the lower end of an umbrella's shaft (13), a lower end pivotally mounted to the vehicle allowing the umbrella to pivot forward and aft (15), locking means to secure the offset frame in a desired position (19, 21, 22), spindle means included in the offset frame (20) providing for rotation and vertical adjustment of the umbrella shaft, and an umbrella (14).

#### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rounds, Tosso, Williams, Garrett, Campomar, Zent, Grundman, Allee, Matusek, and McFarlane all describe means for holding an umbrella. Blaugrund and Krizman describe means for holding an antenna.
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James T. Nelson whose telephone number is (571) 272-1491. The examiner can normally be reached on M-F 8:30am - 5:00pm.
15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTN  
07/15/2005

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